



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

MINUTES OF THE July 19, 2012 GENERAL SESSION

AGENDA

1. Call to Order

Chairman MacKay called the General Session to Order at approximately 9:37a.m.

2. Roll Call

Present in Las Vegas: Chairman Andrew J. MacKay, Commissioner Monica B Metz, Commissioner George Assad, Administrative Attorney James Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Chief of Enforcement Michael Bradford, Deputy Attorney General Christopher Eccles, and Senior Deputy Attorney General David Newton. Present in Reno: Deputy Commissioner Marilyn Skibinski.

3. Pledge of Allegiance

Commissioner Assad led a recital of the Pledge.

4. Public Comment:

Jeff Sawin, Private Property Protective Association, voiced his concerns with regard to the Authority's requirements and/or restrictions of "walk and tag" services. Clark Whitney, Tow Guys, discussed circumstances under which a tow carrier may be warranted in releasing a vehicle to someone other than the registered owner. Michael Keller, AAA, commented regarding the model tow tariff and summarized his written public comment submitted prior to the meeting. Applications Manager Liz Babcock and Chairman MacKay stated that rate irregularities will be identified and addressed after the conversion process is complete.

5. Approval of Agenda

Administrative Attorney James Day asked that Items 11, 26 and 41 be removed from the agenda as these matters have been reset for hearing, that Items 27 and 30 be considered separately as the Respondents were present and wished to discuss the remedies, and noted that Item 33 was skipped when numbering the agenda items, but no item is missing from the binders or the agenda. Applications Manager Liz Babcock noted that Item 78, the Tariff Modification for Presidential, could be removed as it will be included under Item 81.

Approved as modified 3-0.

6. Approval of the Minutes of the June 12, 2012 Agenda Meeting

Approved 3-0.

7. Briefings from the Commissioners

Commissioner Metz welcomed Commissioner Assad to the Authority. Chairman MacKay echoed Commissioner Metz's welcome, thanked Commissioner Metz for her expertise during his recent absence, and also thanked Chief Bradford and the Authority's Enforcement Staff on the recent sting operations in China Town.

8. Briefing from the Deputy Commissioner

None.

9. Report of Legal Counsel

Senior Deputy Attorney General David Newton stated the Handicab matter had been given a third extension for submission of the opening brief and that the Petition for Judicial Review filed by Zachary Campbell had been dismissed.

ADMINISTRATIVE CITATIONS AND IMPOUNDMENTS

Items 10 thru 50, with the exception of Items 11, 26, 27, 30, 41 and 43 were considered collectively and approved 3-0.

10. Citation 15625 issued to Rapid Tow, LLC for violations of NAC 706.4477. (MBM)

11. Citations 15725 and 15826 issued to Mulugeta Kebede Bour for violations of NAC 706 as amended by LCB File No. R127-07(1), NAC 706.228(1) as amended by LCB File No. R127-07, and NAC 706.354. (MBM)

Removed from the Agenda prior to consideration.

12. Citation 15757 issued to Richard Gazda d/b/a Desert Fox Tours for violations of NRS 706.386 and NRS 706.758. (MBM)

13. Citation 15805 issued to Quality Towing for violation of NRS 706.4477/NAC 706 as amended by LCB File No. R075-08. (MBM)

14. Citation 15811 issued to Mehrejab Araya for a violation of NAC 706.228. (MBM)

15. Citation 15838 issued to Tewolde Mekonen for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(5) as amended by LCB File No. R127-07. (MBM)

16. Citation 15860 issued to Clarence Adams for a violation of NRS 706.386. (MBM)

17. Citation 15862 issued to Dana Proctor for a violation of NAC 706.228. (MBM)

18. Citation 15865 issued to Young Nam Kim for violations of NRS 706.386 and NRS 706.758. (MBM)

19. Impound 1261 The impoundment pursuant to NRS 706.476 of a vehicle registered to Malco Enterprises of Nevada Inc. d/b/a Budget Rent A Car and Sales. (MBM)

20. Impound 1555 The impoundment pursuant to NRS 706.476 of a vehicle registered to Eun Mann Rhee. (MBM)

21. Impound 1991 The impoundment pursuant to NRS 706.476 of a vehicle registered to Eduardo Campos-Curiel. (MBM)

22. Impound 1556 Citation 15869 The impoundment pursuant to NRS 706.476 of the vehicle registered to and Citation 15869 issued to Rafi Guy for violations of NRS 706.386 and NRS 706.758. (MBM)

23. Impound 1861 and Citation 15864 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15864 issued to Jung Ho Bae for violations of NRS 706.386 and NRS 706.758. (MBM)

24. Impound 1872 and Citation 15846 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15846 issued to Hong Juan Song for violations of NRS 706.386 and NRS 706.758. (MBM)

25. Impound 1993 and Citation 15847 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15847 issued to Je Min Jeon for violations of NRS 706.386 and NRS 706.758. (MBM)

26. Citation 15716 issued to Cedric Lamont Burton for a violation of NAC 706.228(3) as amended by LCB File No. R127-07. (MJK)

Removed from the Agenda prior to consideration, hearing reset for a future date.

27. Citation 15792 issued to Storage One/Gary Baratta for a violation of NRS 706.758. (MJK)

Respondent Gary Baratta appeared, represented by Thea Sankiewicz, Esquire. Respondent requested the phone disconnection requirement be waived. Ms. Sankiewicz explained the phone number is not in the control of the Respondent and also requested the fine be reduced. In the absence of Commissioner Kloberdanz, Administrative Attorney James Day summarized the details of the hearing. Approved 3-0 as originally proposed.

28. Citation 15793 issued to Eagle Crest Moving/Robert Smith for violations of NRS 706.386 and NRS 706.758. (MJK)

29. Citation 15798 issued to Eduardo Campos-Curiel for violations of NRS 706.386 and NRS 706.758. (MJK)

30. Citation 15849 issued to Jeffrey S. Salerno for violations of NRS 706.386 and NRS 706.758. (MJK)

Respondent Jeffrey Salerno appeared requesting the phone disconnection requirement be waived. In the absence of Commissioner Kloberdanz, Administrative Attorney James Day summarized the details of the hearing. Amend order to allow him to keep number - Approved 2-1, Commissioner Metz opposed.

31. Citation 15856 issued to Kum Ho Kim for violations of NRS 706.386 and NRS 706.758. (MJK)

32. Impound 1968 The impoundment pursuant to NRS 706.476 of a vehicle registered to Perry Chae. (MJK)

33. *Number inadvertently skipped in drafting of agenda items.*

34. Impound 1969 The impoundment pursuant to NRS 706.476 of a vehicle registered to United Van Rentals. (MJK)

35. Impound 1996 The impoundment pursuant to NRS 706.476 of a vehicle registered to EAN Holdings, LLC. (MJK)

- 36. Impound 1997** The impoundment pursuant to NRS 706.476 of a vehicle registered to Valley Hitch & Truck Rental. (MJK)
- 37. Impound 1919 and Citation 15857** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15857 issued to Bao Nguyen for violations of NRS 706.386 and NRS 706.758. (MJK)
- 38. Impound 1967 and Citation 15855** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15855 issued to Young Chevll Moon for violations of NRS 706.386 and NRS 706.758. (MJK)
- 39. Impound 1992 and Citation 15799** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15799 issued to Michael Pulu d/b/a 9th Island Movers for violations of NRS 706.386 and NRS 706.758. (MJK)
- 40. Impound 1995 and Citation 15854** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15854 issued to Kwi Ha Lee for violations of NRS 706.386 and NRS 706.758. (MJK)
- 41. Citations 15222, 15223, 15224, 15501, 15502, 15503, 15585, and 15587** issued to Silver State Towing for violations of NAC 706.247, NAC 706.194, NAC 706.206, NAC 706.311, NAC 706.420, NRS 706.398, NRS 706.4469, and NRS 706.4477.

Removed from the Agenda prior to consideration, reset hearing for a future date.

- 42. Citation 14490** issued to Filmone Tuavao for a violation of NAC 706.376 and NAC 706.247/49 CFR 391.41.
- 43. Citation 15524** issued to Rapid Tow, LLC for violation of NAC 706 as amended by LCB File No. R075-08.

Removed from the Agenda prior to consideration, need proof of refund.

- 44. Citation 15770** issued to Crown Moving/James Shults for violation of NRS 706.758.
- 45. Citation 15790** issued to Todd Bell for violation of NAC 706 as amended by LCB File No. R127-07(1).
- 46. Citation 15797** issued to Quality Towing for a violation of NRS 706.4479(3)(a).
- 47. Citation 15800** issued to Chancharoenroj Suppawat for violation of NAC 706 as amended by LCB File No. R127-07(1).
- 48. Citation 15812** issued to John Laitinen for violation of NAC 706 as amended by LCB File No. R127-07(1).
- 49. Citation 15850** issued to Yared Derbaw for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(5) as amended by LCB File No. R127-07.
- 50. Citation 15861** issued to Georgiev Zhely Yazko Georgiev for a violation of NAC 706.228 as amended by LCB File No. R127-07.

**APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE TOW CAR SERVICE**

- 51. Docket No. 12-07008** The temporary discontinuance from July 10, 2012 through September 1, 2012 of services provided by Michael Nguyen d/b/a Regulate Towing under Certificate of Public Convenience and Necessity 7280. Staff investigation concluded.

Approved 3-0.

VOLUNTARY CANCELLATIONS

- 52. Docket No. 12-06011** The voluntary cancellation by R.T. Tows, LLC d/b/a R T Tow of Certificate of Public Convenience and Necessity (hereinafter "CPCN") 7267. Staff investigation concluded.
- 53. Docket No. 12-07003** The voluntary cancellation by Patrick H. Kelso d/b/a Towing & Recovery Solutions of CPCN 7276. Staff investigation concluded.
- 54. Docket No. 12-07005** The voluntary cancellation by Trade Show Services, LTD d/b/a Pro-Tect Security of Contract Carrier Permit MV6147. Staff investigation concluded.

Items 52, 53, and 54 considered collectively and approved 3-0.

PETITION TO DEVIATE FROM REGULATION

- 55. Docket No. 12-05002** The Petition to Deviate from Regulations pursuant to NAC 706.1305 filed by CLS Nevada, LLC dba CLS Transportation, Las Vegas seeking Authority approval to deviate from NAC 706.228(3) as amended by LCB File No. R127-07. Specifically, the Petitioner seeks relief from obligations regarding displaying signs at the MGM Grand Hotel & Casino. (AJM)

Kimberly Maxson-Rushton, Esquire was present on behalf of the Petitioners and clarified the request for the deviation. Chief Michael Bradford stated recent testing of properties allowed similar deviations found no tariff rates being misquoted to the public. Commissioner Metz noted that if such violations are found in the future, Authority Staff would move to have the deviation allowance withdrawn. Approved 3-0.

PETITION TO AMEND REGULATION

- 56. Docket No. 11-12016** Petition to Amend NAC 706 as Amended by LCB File No. R075-08. Petitioner Ashley's Towing requests that the Authority amend the referenced regulation to allow for specific requests to tow to be authorized either by a written signature or by an alternative electronic format. (AJM)

Kimberly Maxson-Rushton, Esquire, Owner Shawn Davis and Manager David Lewis were present on behalf of Petitioner. Ms. Rushton advocated for the Petition. Commissioner Metz and Chairman MacKay voiced reluctance to make category C tows easier. Chairman MacKay noted that the Petitioner could seek to address this issue through legislative action. Commissioner Assad stated his concurrence with Chairman MacKay and Commissioner Metz and commended Ms. Rushton for the quality of her advocacy in the matter. Denied 3-0.

FINANCIAL RATES AND TARIFFS

Items 58 thru 73, with the exception of Item 69 were considered collectively and approved 3-0.

- 57. Docket No. 11-11017 #2** The Application of Tow Guys, Inc. d/b/a Tow Guys for approval of a tariff rate modification for tow car services conducted under CPCN 7108, Sub 3. Staff investigation concluded.

Applications Manager Liz Babcock summarized areas of disagreement between the Staff and Applicant with respect to tariff rates for equipment or services that the carrier does not provide, such as airbags and certain heavy duty equipment. Manager Clark Whitney and owner Dennis Milk argued that the

Applicant would acquire the equipment upon the request of a customer, and that such operation complies with the Authority's Advisory Opinion issued at the December 2011 General Session. A discussion ensued including David Walker, Walker Towing and Leo Flangas, Titan Towing. Approved 3-0, with compliance items to remove: Category B airbag rate, recovery >20,000 pounds rate; recovery 50-ton rate; recovery rotating boom rate, and associated mileage rates.

- 58. Docket No. 11-11017 #7** The Application of Norm Chamberlin Enterprises, Inc. d/b/a Valley Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7167, Sub 1. Staff investigation concluded.
- 59. Docket No. 11-11017 #10** The Application of Bruno Selmi for approval of a tariff rate modification for tow car services conducted under CPCN 3254, Sub 1. Staff investigation concluded.
- 60. Docket No. 11-11017 #12** The Application of John H. King d/b/a Cal-Nevada Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7129. Staff investigation concluded.
- 61. Docket No. 11-11017 #19** The Application of Vegas Tows, LLC for approval of a tariff rate modification for tow car services conducted under CPCN 7249. Staff investigation concluded.
- 62. Docket No. 11-11017 #26** The Application of RJK Recourses, Inc. d/b/a Vegas Valley Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7192, Sub 3. Staff investigation concluded.
- 63. Docket No. 11-11017 #28** The Application of Lynn R. Jackson d/b/a Lynn's Auto Center for approval of a tariff rate modification for tow car services conducted under CPCN 3290. Staff investigation concluded.
- 64. Docket No. 11-11017 #38** The Application of A. A. Action Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 3336. Staff investigation concluded.
- 65. Docket No. 11-11017 #40** The Application of Auto World Auto Repair & Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7058. Staff investigation concluded.
- 66. Docket No. 11-11017 #54** The Application of Century Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7124, Sub 2. Staff investigation concluded.
- 67. Docket No. 11-11017 #61** The Application of John Baker Enterprises, Inc. d/b/a Emerald Bay Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7081, Sub 2. Staff investigation concluded.
- 68. Docket No. 11-11017 #65** The Application of City Towing, Inc. d/b/a Quality Towing for approval of a tariff rate modification for tow car services conducted under CPCN 3069, Sub 3. Staff investigation concluded.

69. Docket No. 11-11017 #66 The Application of Ken Lehman Enterprises, Inc. d/b/a South Strip Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7008, Sub 1. Staff investigation concluded.

Collections Manager Camilla Sparks was present on behalf of the Applicant. Chairman MacKay expressed concerns about the carrier's rates. A discussion ensued including Chairman MacKay, Commissioners Metz and Assad, Ms. Sparks, Applications Manager Liz Babcock, David Walker (Walker Towing), Michael Keller (AAA), and Senior Deputy Attorney General Newton regarding the proper procedure for investigating and potentially modifying the carrier's rates. Approved 3-0 with an investigation of rates to follow.

70. Docket No. 11-11017 #67 The Application of Sunrise Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7049, Sub 1. Staff investigation concluded.

71. Docket No. 11-11017 #70 The Application of Rapid Tow, LLC d/b/a Rapid Tow for approval of a tariff rate modification for tow car services conducted under CPCN 7224, Sub 1. Staff investigation concluded.

72. Docket No. 11-11017 #71 The Application of SEM Enterprises, LLC d/b/a City Auto Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7117, Sub 3. Staff investigation concluded.

73. Docket No. 11-11017 #78 The Application of Bosch Motors Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7055, Sub 1. Staff investigation concluded.

74. Docket No. 12-04014 The Application of Ace World Wide Moving and Storage Co., Inc. for approval of a tariff rate modification for household goods moving services conducted under Certificate of Public Convenience and Necessity 3251, Sub 2. Staff investigation concluded.

Wade Bute, owner, Ace World Wide Moving was present on behalf of the Applicant and summarized the reasoning behind the increase in tariff rates. Applications Manager Liz Babcock detailed Staff reasoning behind agreement with tariff ceiling. Approved 3-0.

75. Docket No. 12-05027 The Application of Ashley's Towing, Inc. d/b/a Ashley's Towing for approval of a tariff rate modification for tow car services conducted under CPCN 7220. Staff investigation concluded.

Manager David Lewis, Ashley's Towing, was present on behalf of Petitioner. Applications Manager Liz Babcock indicated Staff support. Approved 3-0.

76. Docket No. 12-06006 The Application of Las Vegas Limousines, A Nevada Corporation for approval of a tariff rate modification for charter limousine services conducted under CPCN 2258, Sub 5. Staff investigation concluded.

Considered with Item 77.

77. Docket No. 12-06007 The Application of Airline Limousine Corporation for approval of a tariff rate modification for charter limousine services conducted under CPCN 2050, Sub 3. Staff investigation concluded.

Items 76 and 77 were considered collectively. Chairman MacKay summarized the Applications. Applications Manager Liz Babcock indicated Staff support. Approved 3-0.

78. Docket No. 12-06016 The Application of Presidential Limousine for approval of a tariff rate modification for special services conducted under CPCN 1007, Sub 3. Staff investigation concluded.

Removed prior to consideration, Applications Manager Liz Babcock stated tariff would be addressed with Item #81, under Docket 12-01002.

APPLICATIONS FOR FULLY REGULATED CARRIERS

79. Docket No. 10-06013 The Joint Application of Pack-Rat NV #1, LLC d/b/a 1-800 Pack-Rat to sell and transfer and of 1-800 Pack-Rat, LLC d/b/a 1-800 Pack-Rat to purchase and acquire the authority to provide transportation of household goods under CPCN 3348. Staff investigation concluded. (AJM)

Attorney Jeffrey Silver, Esquire appeared on behalf of Applicant. Mr. Silver additionally asked that the Applicant's fleet restriction be increased from two to three. Chairman MacKay noted that such a request would require the filing of a separate application for expansion of authority. Approved 3-0 as drafted.

80. Docket No. 12-01010 The Joint Application of RET Services, Inc. to sell and transfer and of Abraham Limo Service, Inc. d/b/a ALV to purchase and acquire the authority to provide charter limousine service under CPCN 1104. Staff investigation concluded. (AJM)

Chairman MacKay summarized the application. Kimberly Maxson-Rushton appeared on behalf of RET Services. Mulgetta Abraham, prospective owner, Minty Abraham, wife, Fofoaiga Fata and Filipina Fata, staff were also present. Approved 3-0

81. Docket No. 12-01002 The Application of Presidential Limousine, Inc. for approval of an expansion of operating authority under CPCN 1007, Sub 3. The Authority previously granted Applicant's request for interim/temporary approval of the Application. Staff investigation of Application concluded. (AJM)

Attorney Jeffrey Silver, Esquire was present on behalf of Applicant. Mr. Silver reported that the service has proven successful during the interim approval. Approved 3-0, conditional upon the ongoing operational inspection not identifying any operational issues.

PETITION FOR RECONSIDERATION

82. Docket No. 12-07013 Petition for Reconsideration of the Authority's June 20, 2012 Order in the matter of Citation 14473 issued to A.R. Fairman dba No Stress Express for violations of NRS 706.386 and NRS 706.758. Respondent argues that the findings and recommendations set forth by the Authority in the June 20, 2012 Order are not supported by the record. (MBM)

Mr. A.R. Fairman and Justin Clouser, Esquire on behalf of the Petitioner were present in the Reno office. Commissioner Metz indicated the request for reconsideration was filed simply to exhaust all administrative remedies before proceeding to district court. Petition Denied 3-0.

DISCUSSION ITEMS

83. Docket No. 12-07009 The Authority will discuss the issue raised at the May 2012 General Session by David Walker of Walker Towing regarding whether "walk and tag" services provided by a tow carrier for a private property owner constitute a form of remuneration prohibited by NAC 706.442.

David Walker, Walker Towing summarized the procedure generally followed for "walk and tag." Mr. Walker noted the regulations state there is to be no remuneration for services. Chairman MacKay and Commissioner Metz concur that the walk and tag for remuneration is against regulation. A discussion ensued including David Walker, Walker Towing, Dennis Milk and Clark Whitney, Tow Guys, Jeff Sawin, Private Property Protective Association, Camilla Sparks, Quality Towing, Leo Flangas, Titan Towing.

Senior Deputy Attorney General Newton suggested assigning a Hearing Officer to take comments and make findings and recommendations to the Authority. Item tabled until a Hearing Officer is assigned.

- 84. Docket No. 12-07010** The Authority will discuss proper billing for utilization of specialized equipment (e.g. a boom truck), including “pass through” billing of another carrier’s rates for such services.

Senior Deputy Attorney General Newton summarized the issue and requested clarification for “pass through” charges for specialized or extra equipment. A discussion ensued including David Walker, Walker Towing, Dennis Milk and Clark Whitney, Tow Guys, Jeff Sawin, Private Property Protective Association, Camilla Sparks, Quality Towing, and Leo Flangas, Titan Towing as to how the charges from “company A” should pass through to “company B” ie: consent vs. non-consent tow charges. It was determined if “company A” is contacted to perform the tow and contracts with “company B” for equipment, then the non-consent rate listed in “company B’s” tariff would be billed to the registered owner by “company A” without an additional 15% add-on.

- 85. Docket No. 12-07011** The Authority will discuss whether a “set out” fee should be billed separately from the related towing services on a distinct bill.

Removed from Agenda prior to discussion.

- 86. Docket No. 12-07012** The Authority will discuss the signage requirement set forth in NAC 706.228(3) as amended by LCB File No. R127-07. Specifically, the Authority will discuss whether the requirement that the sign state the “approved rates” is satisfied by the following practices: 1) stating a single total rate (as opposed to separately specifying each element of the rate, such as fuel surcharge and airport fee), and 2) stating the base fare charge “plus applicable fuel surcharge” rather than specifying the amount of the current fuel surcharge.

The Authority, by a vote of 3-0, memorialized its findings that practice 1) above is compliant, but that practice 2) above is not compliant, in that the amount of the fuel surcharge must be specified.

87. Public Comment

Dennis Milk, Tow Guys voiced his concerns with regard to non certificated carriers within the towing industry and recommended the Authority look into regulating all towing vehicles, requiring every vehicle to be inspected for safety etc. David Walker, Walker Towing echoed Mr. Milk's comments.

88. Adjournment

Meeting was adjourned at approximately 1:20 p.m.